

S-483

CONNECTICUT  
GEN. ASSEMBLY  
SENATE

PROCEEDINGS  
2003

VOL. 46  
PART 9  
2568-2875

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002621

Senate

Wednesday, May 21, 2003

Calendar Page 18, Calendar 311, File 460,  
Substitute for S.B. 1155 An Act Concerning The Federal  
No Child Left Behind Act And Teacher Certification.  
Favorable Report of the Committees on Education and  
Human Services. The Clerk is in possession of four  
amendments.

THE CHAIR:

The Chamber will stand at ease, please.

The Senate will come to order. Senator Gaffey, you  
have the floor, Sir.

SEN. GAFFEY:

Thank you, Madam President. Madam President, I  
move acceptance of the Joint Committee's Favorable  
Report and passage of the bill.

THE CHAIR:

The motion is acceptance and passage. Will you  
remark, Sir?

SEN. GAFFEY:

Yes, Madam President. First, I would ask the Clerk  
to call LC06218 and I be granted leave of the Chamber to  
summarize.

THE CHAIR:

The Clerk is in possession of LC06218. The Senator  
has asked leave to summarize. Would the Clerk please  
call. Thank you.

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THE CHAIR:

LC06218 which will be designated Senate Amendment  
Schedule "A". It is offered by Senator Gaffey of the  
13<sup>th</sup> District et al.

THE CHAIR:

You have the floor, Sir.

SEN. GAFFEY:

I move adoption, Madam President.

THE CHAIR:

Motion is adoption. Will you remark?

SEN. GAFFEY:

Yes, Madam President. And let me thank Senator Sullivan and Senator Herlihy for working with me on this amendment. This amendment, I think, makes clear prudent sense for the State of Connecticut in meeting the mandate of the federal law and the no, the so-called No Child Left Behind Act which I will expound on further after we dispose of this amendment, or pass this amendment, I'm sorry.

What this amendment will do, will require that any cost associated with the implementation of this federal mandate be paid for exclusively by federal funds that are received by the state and local or regional boards of education.

It also requires that the committee of cognizance,

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this being the Education Committee, evaluate the estimated additional costs to the state and its local and regional boards for compliance net of the appropriated federal funds for such purpose and the comparable amount estimated of federal funds to be received and ascertained that we are absolutely receiving adequate federal funds to implement this federal mandate and I urge the Chamber to pass the amendment.

THE CHAIR:

Thank you, Senator Gaffey. Will you remark further? Senator Sullivan.

SEN. SULLIVAN:

Thank you, Madam President. And I want to thank Senator Gaffey and also Senator Herlihy for giving us this opportunity to put this issue in front of us.

The legislation in and of itself and the budget that we adopt, will, of course, require Connecticut to continue to implement our mastery testing program as we have and we will make whatever adjustments we need to make in that mastery testing program with state funds in order to fine tune it to what may or may not be the future requirements of the so-called No Child Left Behind legislation.

That said, as we struggle with our budgets in

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Connecticut, and we will be struggling for some years to come, as school district upon school district, town upon town struggle with their budgets, and they will struggle for some years to come, it is worth pausing to note that No Child Left Behind now stands as the single largest federal unfunded mandate for education in the history of this nation.

And for all the bipartisan, and I have to say bipartisan enthusiasm, no matter that a few on my side of the aisle in Washington now say, well, you know, I didn't quite understand. I was fooled. Gee, they didn't explain it to me quite right, that the Bush administration and a compliant Congress have passed along to us this nightmare.

The nightmare of an approach to accountability that it is fundamentally flawed, essentially useless, and worse than that, incredibly expensive, with no adequate identification of funding from the federal government.

It's interesting that in the original fiscal note on the, the fiscal note on the original amendment before it was revised to avoid the fiscal impact, one of the comments made was, and I thought it was cute, that state funds, federal funds are insufficient, federal funds are insufficient to pay for the cost of compliance in the State of Connecticut. It's really no surprise.

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In Fiscal 04, the estimated cost to the State of Connecticut knew \$5, \$6 million. Fiscal 04 for the school districts of the State of Connecticut, \$42 million. Fiscal 05, thank you, President Bush, thank you Congress, estimated state cost \$6.5 million, local cost \$47 million. Not too bad. Fiscal 06, estimated state cost, \$7 million, local cost \$84 million. And in 07, \$7 million and \$87. That is just to change the way we do accountability in the State of Connecticut.

Now, that's the tip of the iceberg. And what is the change in accountability, by the way? The fundamentally preposterous notion that there is anything to be gained when every bit of research tells us that testing children every single year is utter political rot. Does nothing for accountability and does nothing for kids. But that's just the tip of the iceberg.

Here's the rest of the iceberg. And it's coming. It's coming our way folks. The estimated instructional costs, now the instructional piece, to bring Connecticut into compliance with this legislation, let's just take Fiscal 06. I could choose any year. New cost Fiscal 06, local school districts, \$309 million.

Now that's not the end of it. There's a third piece. If you're serious about it, it requires you to make sure that every school comes up to this remarkable

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standard, so make that another \$160 million for the school districts of the State of Connecticut.

Where in God's name is this money coming from? It isn't coming from Washington. It has not been appropriated and indeed in the budget that's in front of us in Washington right now, in the first year of promise, it has been underfunded and it will be underfunded every year and we only pray that that one magic phrase Leave No Child Behind that says if the feds don't fund it, we don't have to do it, turns out to be real.

What a nightmare. What a joke. What a shame. What will we do if we have to implement this law? Who is going to pay for this? We argued this year and we're going to argue next year about keeping our commitment on ECS. Piece of cake compared to keeping their commitment on this.

We argue this year about whether we're doing enough for special ed, which by the way, still isn't funded at 40% federal as it was promised to be when the law was passed. But that's a piece of cake compared to figuring out how we're going to pay for this political nonsense.

Every group in this nation was sound asleep, except perhaps the National Council of State Legislatures who went to Congress and said, do you have a clue what you

and President Bush are about to do to the kids and taxpayers of this nation? And Congress and the President said, no. We think this is great. It's accountability. It's tough standards. It's none of those things. It's empty posturing at the expense of our kids and the expense of our taxpayers.

And I thank Senator Gaffey and Senator Herlihy for recognizing this in their Committee on Education and saying in no uncertain terms, we will do what we need to do in Connecticut to the extent of our resources to take care of Connecticut. We will continue to have the best accountability system in the nation.

But if you want us to take that accountability system and turn it into something that doesn't work, you can pay for it.

If you want us to go through the nightmare of trying to test every kid, every year, every grade, every day, you can pay for it.

And more importantly, and this is the real scary part. I'm not paranoid most of the time. Once in a while. Make no mistake that as No Child Left Behind goes into effect, the way in which the standards have been set, are quite thoughtfully established to lead more and more to the conclusion that some of the best schools in America are failing schools.



In West Hartford, Connecticut, there's a middle school called Sedgwick Middle School, national award recognized school of excellence. National recognized school of excellence. It will be a failing school under this nonsense that's being put upon the State of Connecticut and every state in this nation.

And what will happen at the end of the two or three years of some of the best schools in the State of Connecticut being labeled failing schools? My gosh! We need to have vouchers. We got to get the kids out of those terrible schools. Give them a break. Let them go to private schools, because all of the public schools have failed because we've set a test that no one can pass.

Now, I may be paranoid or I may not be paranoid. But I suspect somewhere in the bowels of some think tank someplace, somebody very carefully figured out that as we implement this law at the federal level and imposed on us at the state level, it is crystal clear that it is designed to further undermine public confidence and public education to do so unfairly, unwisely, and ineffectively and then hold public schools accountable and say, see, we told you the system was no good. Now, give us your bucks so we can send them out of public education and let the folks who can afford private

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education do a little bit better.

But you don't have to buy into my paranoia to buy into the numbers. Every state in this nation should come together and say to Washington, this needs to be repealed, taken off the books now and we will not spend one dime of the taxpayers' dollars in this state and when we implement, you pay for it. It's your mandate. It's your politics. It's not our education.

Thank you both Senators.

THE CHAIR:

Thank you, Senator Sullivan. Senator Herlihy, you have the floor, Sir.

SEN. HERLIHY:

Thank you, Madam President. I chose to add my name to this effort and make this a bipartisan effort on the basis that this huge federal mandate that has been foisted on us was a bipartisan error.

President Bush and his administration has been mentioned a few times by Senator Sullivan and Senator Sullivan was good enough to say that it wasn't just President Bush, it was Congress themselves and almost on a unanimous basis, I'm ashamed to say.

But make no mistake. I know Senator Kennedy from Massachusetts was involved in the drafting of this legislation. I believe Senator Lieberman was involved.

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I know that it passed and all eight members of our federally elected officials voted in favor of this and I believe that you know, we had three Republicans and three Democrats in the House and obviously two Democrats in the Senate. So this is not a partisan issue. It's not just the administration. It's not just Congress. It's both combined.

And I think the problem develops when federal mandates come our way, whenever they try to impose a law uniformly for every state in the country. There is a world of difference between the educational level and the performance of students in Connecticut and students in some parts of our country.

You compare Connecticut which is at the very highest end, and you compare perhaps some state from the south, in particular. I don't want to single out any particular states, but some of the states in the south have not performed anywhere near the level that Connecticut has.

But for them to uniformly decide that this mandate is appropriate for all 50 states in the union was certainly not thoughtful and certainly was relatively careless. There should have been some opportunity for a state to customize for the best interests of their students, especially if their students are performing at

the very highest level.

There should have been some ability for states to customize and tailor for their particular needs of their students, particularly if they were performing at the very lowest level throughout the country.

So it's when they get into this cookie cutter approach, what's best for one state is best for all states is when the problem exists and I know that Senator Gaffey and Senator Sullivan has discussed the expense associated with this. Senator Sullivan obviously just went through some significant numbers and costs to the state and local and regional education and I ask my colleagues to adopt this amendment.

Thank you.

THE CHAIR:

Thank you, Sir. Will you remark further on the amendment? Senator Freedman.

SEN. FREEDMAN:

Thank you, Madam President. I rise, obviously, in support of the amendment. I know it's been a very difficult job dealing with this particular piece of legislation that has been thrust upon us from the federal government. Lord only knows I've been to enough conferences where this has come up over and over again. How are we going to deal with this? How are we going to

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sponsor this? How are we going to pay for this.

And so I believe that this amendment is before us today at least puts us in a position of being able to control what we have to do in this state. And if the money ain't there, folks, we can't do it.

And I think our colleagues at the federal level, Lord only knows we said to them enough times, don't mandate. Please don't mandate. We know how we can do things in the State of Connecticut. Don't we hear that from 169 communities in this state? Don't they ask us over and over again not to mandate on them unless we give them the funds?

So I think that this is a very rational, reasonable approach to what the federal government has done for us. I hope that our tests that we already have on the books will be sufficient because we already lead the rest of the United States in most of the things that we do with education and we don't want to lower our bar. We want to continue to raise the bar in Connecticut.

Thank you, Madam President. And thank you Senator Gaffey, Senator Sullivan and Senator Herlihy.

THE CHAIR:

Thank you, Senator Freedman. Will you remark?  
Senator Gaffey.

SEN. GAFFEY:

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Yes. Thank you, Madam President. Just to follow up on what my colleagues have previously stated and I thank them for their remarks and for their work on this.

First of all, Senator Sullivan mentioned that it was the National Conference of State Legislatures as the sole body that objected to the provisions, the mandates and the expense in the federal legislation and they certainly did so and a number of us have worked with NCSL on the Education Committee, on the executive committees, members from the Connecticut Legislature and we thank them for their hard work.

And it's a shame that in Washington they were ostracized for delivering a message that was as true as the day is long. And now the chickens are coming home to roost and those chickens are going to be quite expensive.

Senator Sullivan put it very well. This is political nonsense, this federal act. It is the quintessential Trojan horse because what it aims to do, or what it proclaims to do, isn't what it's going to wind up doing, at all. It shows a fundamental disrespect to the states and how we have advanced in learning and achieving for the school children that we serve, a fundamental disrespect.

And as Senator Herlihy pointed out, in Connecticut, we outpace every other state in the nation in test scores. And for us to be referenced to a Texas criteria in a test is an insult to the students of the State of Connecticut. I mean, that's what this federal act does.

But to the amendment, specifically, because the amendment deals with the prudence in dealing with this federal mandate. Senator Sullivan did a great job in articulating the overall expenses of this federal mandate and Lord knows, where is this money going to come from?

And I want to thank Ray Rossamondo on the Senate Democratic staff because he worked really hard in gathering these numbers working with the local school districts and with OFA and with the State Department in gathering these numbers. But just look at one aspect of what Senator Sullivan had to say about what the cost is going to be, because when the trigger is pulled and a school is determined to be failing under this federal mandate, or in need of improvement as they so politically put it in the federal act, automatically there will be supplemental services that will be required. It will be a mandate under the federal act.

And while my Senator, who is the deputy under the Federal Department of Education commissioner, had said

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at our hearing, well, you know, you don't have to comply with this federal law. You don't have to comply if you don't want to. You could forfeit your Title I monies.

Well, talk about being put between a rock and a hard place. How the heck is Connecticut going to turn around and say, oh, we don't want to comply and you can keep the \$200 million you give us in Title I monies.

Everybody around this circle knows that we can't afford to refuse \$200 million in Title I monies that our school children are entitled to. But that's the Hobson's choice that this inane federal mandate presents us.

And of the \$200 million in Title I, what the federal law allows us to do is to take 20% of that for supplemental services. Now, if you divide the \$200 million into the students, by the students we have in the State of Connecticut by the pupils we serve, it's \$191 per pupil.

The federal law allows us to use 20% of that for supplemental services. But \$38 per pupil. That in no way, shape or form even scratches the surface as to what this is going to cost, because the conservative estimate that we have on just supplemental services alone that would be required under this act is more than \$36 billion in 06, the first year. More than



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\$36 million.

Now Senator Sullivan referred to the Sedgwick School in West Hartford. I have three blue ribbon schools in Meriden, three of them, nationally recognized schools of excellence, two of which probably will not meet the criteria under this federal act, so they'll be deemed in need of improvement.

Now the media will probably call them failing. Ludicrous. They're nationally recognized blue ribbon schools. Schools of excellence.

Now I'll get into the other aspects of this federal act and how we're trying to deal with it with this bill after we adopt this amendment. But when you look at the staggering numbers of costs, of what this federal act will require, it is very prudent that we adopt this amendment and take the time in the interim, to determine exactly how much money the federal government is giving us to meet this mandate and how much would be required to make up the difference and try to figure out how we'd make up that difference. Lord knows, I don't know how we're going to make up the difference.

So with that, Madam President, I would ask the Chamber to adopt this amendment and we move forward to the bill as amended after the adoption of the amendment. Thank you.

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THE CHAIR:

Thank you, Senator Gaffey. Will you remark further on Senate Amendment "A"? Senator Cappiello.

SEN. CAPPIELLO:

Thank you, Madam President. First, I want to thank my colleagues who have spoken before me for their thoughtful comments and I agree with most everything that was said.

But I just wanted to interject one thought, if I might, following up on Senator Freedman's comments. I hope that this body will consider the words that were spoken today on this issue, on this amendment when we are debating whether we are going to be passing unfunded state mandates on municipalities and boards of educations because I think they're saying some of the same things that have been said today about us.

So I want to thank you, Madam President.

THE CHAIR:

Thank you, Senator Cappiello. Will you remark? Senator Sullivan. No. Will you remark further? He tricked me. If not, Senator Gaffey.

SEN. GAFFEY:

Thank you, Madam President. Madam President, I have to comment because just so the record is clear. There isn't a mandate that's been passed by the State of

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Connecticut that even comes close, not even 1% close, to the level of magnitude that this mandate imposes on the states, or IDEA that was passed in the mid seventies imposed on the states. It doesn't even scratch the surface, anything that we've ever passed. Just to be clear for the record.

THE CHAIR:

Thank you, Senator Gaffey. Will you remark further? Senator Cappiello.

SEN. CAPPIELLO:

Thank you, Madam President. Just so I can make my comments clear. We still pass unfunded state mandates year after year upon our municipalities and upon our boards of education and if they're so important that we pass them, maybe we should consider funding them in the future. Thank you, Madam President.

THE CHAIR:

Will you remark further? If not, I will try your minds. All those in favor of Senate Amendment "A", please indicate by saying "aye".

ASSEMBLY:

Aye.

THE CHAIR:

Those opposed, "nay" The ayes have it. The amendment is adopted. Will you remark further on the

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bill as amended? Senator Gaffey.

SEN. GAFFEY:

Thank you, Madam President. Madam President, just to be clear that this bill would align our mastery testing regimen which currently is 4, 6, 8 and 10<sup>th</sup> grade, to the federal requirements of 3, 5, and 7<sup>th</sup> and 9<sup>th</sup> grade also to be in conformance. I'm sorry, 3<sup>rd</sup>, 5<sup>th</sup> and 7<sup>th</sup> to be in conformance for the 2005-2006 year.

The bill also allows the State Department to certify teachers that are, hold elementary or special ed certification to also teach kindergarten and it also extends to coaches and other holders of permits and authorizations, the same penalties under law for violation of certain felonies and also for violations of reporting, I'm sorry, for failure to report mandated items under our child abuse statutes.

That's the core of the bill in addition to the No Child Left Behind provisions of the bill.

And just very quickly, for what hasn't been said with regard to the No Child Left Behind mandate, just to underscore how difficult it will be for districts to comply with this mandate.

Let me just, for the body's information, tell you that it will require the disaggregation of components of pupils and the average yearly progress won't be measured

on the school as a whole, but it will be measured on a disaggregated component whether it's by race or socioeconomic status, sex, special ed status. So if you have a component of special ed kids, or a cohort of special ed kids in your school and you don't show the progress mandated by this federal act, you're going to be thrown into that category of school of needing improvement and then we require to provide all the supplemental services that we referred to previously and incur the expense of those supplemental services.

Senator Sullivan said it well. Republican or Democrat, for the Congress to have adopted this bill, is really an insult. I daresay that there aren't many that represent the states within the Congress of the United States, that could actually even tell people what this bill did.

It's clear to me, it's very clear to me, that none of them knew what they were voting on. And it ought to be repealed and the people of this state and the states around this nation ought to be clamoring for their federal legislators to repeal this law.

Thank you, Madam President.

THE CHAIR:

Thank you, Senator Gaffey. Will you remark further on the bill as amended? Senator Gaffey.

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SEN. GAFFEY:

Madam President, if there's no further comments or  
objections, I would move this bill to the Consent  
Calendar.

THE CHAIR:

Seeing no objection, so ordered. Will the Clerk  
kindly return to the Call.

THE CLERK:

Calendar Page 21, Disagreeing Actions, Calendar 88,  
File 73 and 712, S.B. 905 An Act Concerning An Attorney  
Assistance Program, as amended by Senate Amendment  
Schedule "A" and House Amendment Schedule "A".  
Favorable Report of the Committees on Judiciary,  
Finance, Revenue and Bonding. On May 14, 2003 the  
House rejected Senate Amendment Schedule "A" and passed  
with House Amendment Schedule "A". The Clerk is in  
possession of two amendments.

THE CHAIR:

Senator McDonald, you have the floor.

SEN. MCDONALD:

Thank you, Madam President. Madam President, I  
move acceptance of the Joint Committee's Favorable  
Report and passage of the bill in concurrence with the  
House.

THE CHAIR: